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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 2ND DAY OF JUNE 1998

PRESENT

THE HON'BLE THE CHIEF JUSTICE, R.P.SETHI

AND

THE HON'BLE MR.JUSTICE K.R.PRASADA RAO

WRIT PETITION NO.10229/1994

BETWEEN:

Sri Plegamma Saplamma Seva
Bhaktha Mandali,
No.158, 9th Cross,
3rd Main, Thyagarajanagar,
Bangalore.

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..PETITIONER

(By Sri.S.G.Prabhakar, Adv.)

AND:

1. The Commissioner,
Bangalore Development
Authority, Sankey Road,
Bangalore.

2. The Commissioner of
Police, Infantry Road,
Bangalore.

..RESPONDENTS

(By Smt.Shobha Patil, Adv.)

This WP is filed under Articles 226 & 227 of the Constitution praying to direct the respondents to allot the schedule site in favour of the temple by regularising all constructions and further direct the respondents to consider the application

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filed by the petitioner in this regard and the respondents may be directed not to either obstruct any of the devotees to offer their poojas and not to demolish either the temple or Ashwathkatte, or Nagara Kallu or Navagraha or a open well existing over the schedule property and etc.,

This WP is coming on for Hearing this day, the Court made the following:

O R D E R

In this Petition which was filed in Public Interest no one has appeared for the petitioners despite ~~calling~~^{ing} number of times after 24.2.1998.

2. The petitioner-Association has prayed for issuance of directions against the respondents to allot the schedule site in favour of the temple by regularising all constructions and further to consider the application of the petitioners filed in that behalf. It is further prayed that the respondents be restrained from obstructing the devotees to offer their poojas in the temple allegedly in existence over the schedule property.

3. In the statement of objections filed on behalf of the respondent-1, it is submitted that before the formation of the lay-out, ^{the site} ~~it~~ was used as burial ground and after the formation of the

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lay-out the respondents authority earmarked ^a~~the~~ separate land for burial ground and ~~that~~ the earlier land used for the aforesaid purpose was earmarked as a Civil Amenities site. In the year 1986 the Additional Police Commissioner requested for allotment of the schedule site for the purpose of construction of police Station and Staff quarters. Before placing the matter before the authority, the actual position of the site was verified. It was found on spot that on the western side of the site Aswathakatte was situated and there did not exist any temple as alleged by the petitioners. It is contended that under the guise of the public interest, petitioners were trying to ^{usurp}~~preserve~~ the valuable piece of land belonging to the respondent authority. The schedule site is stated to have been allotted to the Additional Police Commissioner vide resolution dt. 3.7.1987. The letter of allotment was issued on 4.8.1987 directing the Additional Police Commissioner to pay a sum of Rs.7,77,875/- towards the lease amount and Annuity was fixed at Rs.95,914/-. Having accepted the allotment made by the respondent authority, the Commissioner of Police paid the lease amount. It is contended that the

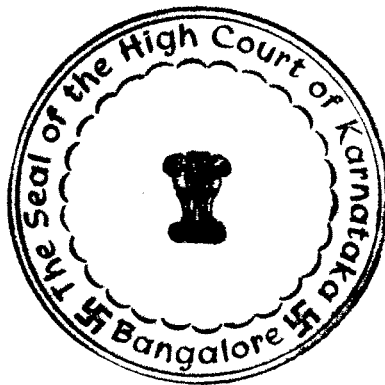
schedule land is not vacant or being used for any other purpose. It is submitted that without challenging the order of allotment made in favour of the Additional Commissioner of Police, the petitioners cannot maintain the present writ petition. As the land has been legally and ^{validly} ~~valuably~~ allotted to the Police Station, petitioners are not entitled to any reliefs.

4. We have heard the learned counsel for respondents and found substance in her arguments. As the land is not lying vacant and the petitioners have failed to substantiate the averments made in the petition regarding the land being used as a temple, they are not entitled to any reliefs. The respondents are justified in contending that the petition filed was not bonafide because the real intention of the petitioners was to construct choultry for which they have already approached the respondent authorities by making representations. ^{ne} ~~There~~ being no illegality or error of jurisdiction in the action of the respondents, no directions

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can be issued.

5. There is no merit in the writ petition which is accordingly dismissed but in the circumstances without any orders as to costs.



Sd/-
JUDGE

Sd/-
JUDGE